

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7812 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

JAYANTIBHAI CHHAGANLAL THAKKAR

Versus

PRINCIPAL DEODAR PRIMARY SCHOOL NO.1

Appearance:

MR CB DASTOOR for the Petitioner.
MR HS MUNSHAW for Respondents Nos.1 to 3.
MR PB BHATT,AGP, for respondent No.4.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 08/10/98

ORAL JUDGEMENT

Rule. Mr. Munsha , learned Advocate for respondents Nos. 1 to 3 and Mr. P.B.Bhatt,learned AGP for respondent No.4 waive service of the Rule on behalf of the respective respondents. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

The petitioner in this petition has prayed for

quashing and setting aside the order of suspension and for reinstatement with full back wages and other allowances. The petitioner is working as Primary Teacher in the establishment of respondent No.1 from 23-11-1972. It appears that in 1994 the petitioner was chargesheeted with the offences punishable under Sections 17 and 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985. In view of the involvement of the petitioner in criminal case, the petitioner was suspended from service with effect from 30-1-1996. The petitioner was accordingly tried in Sessions Case No.24 of 1995 along with other accused by the learned Additional Sessions Judge, Banaskantha at Palanpur, who by his judgment and order dated 9-1-1996 acquitted the petitioner and other accused. The petitioner thereafter made an applications to the respondent-authorities pointing out the fact that he has been acquitted by the learned Additional Sessions Judge and that therefore necessary orders of reinstatement may be passed. Since the respondents have remained inactive, the petitioner has approached this Court by filing the present petition.

There is no dispute to the fact that the petitioner has been acquitted by the learned Additional Sessions Judge, Banaskantha at Palanpur on January 9,1996 as can be seen from the judgment and order passed by the learned Additional Sessions Judge which is annexed to the petition. It is also not disputed that till date no appeal against the said judgment and order of acquittal has been preferred by the respondents nor any departmental inquiry has been initiated against the petitioner even after the said judgment was delivered. In view of these undisputed facts on record, the order of suspension is required to be set aside and the respondents are required to reinstate the petitioner in service with full back wages and other allowances.

In the result, this petition is allowed. The order of suspension dated 30-1-1996 is quashed and set aside. The respondents are directed to reinstate the petitioner with full back wages and other admissible allowances after adjusting the amount paid to the petitioner by way of subsistence allowance. The respondents shall reinstate the petitioner before 10-11-1998. Rule is made absolute to the aforesaid extent with no order as to costs.

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